

February 26, 2020

VIA ECF

Magistrate Judge Lisa Margaret Smith
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: Rutherford, et al. v. City of Mount Vernon, et al.
18-CV-10706 (LMS)

Dear Magistrate Judge Smith,

As the Court is aware, the undersigned and The Quinn Law Firm PLLC represent the City of Mount Vernon and the individually named Defendants in the above-referenced matter. Please accept this correspondence as an update to the Court regarding Plaintiff Rayvon Rutherford's deposition which was scheduled for February 25, 2020.

As the Court is further aware, on February 11, 2020, the undersigned filed a Proposed Order to Produce Plaintiff Rutherford for a deposition on February 25, 2020. (Docket Entry No. 69). On February 14, 2020, the Court So Ordered the Proposed Order to Produce. (Docket Entry No. 71).

Plaintiff Rutherford appeared via telephone for his deposition at 11:00 am on February 25, 2020; however, before we began the deposition Plaintiff Rutherford asked why he had only been notified of the deposition when he was produced by the facility on that morning, a mere five minutes before the deposition.

Plaintiff Rutherford was not notified by the facility that his deposition was to be taken on that day. Due to an oversight on the part of our office, he was never served with the So Ordered Notice to Produce by mail. As a result, Plaintiff Rutherford was unable to properly prepare for the deposition. The undersigned asked Plaintiff Rutherford if he was ready to proceed and he indicated that he had not had the chance to review his case materials, and properly prepare for the deposition. I agreed with Plaintiff Rutherford that the deposition should not proceed under the circumstances and that I would inform the Court of the error.

I apologize to the Court and to Plaintiffs Rutherford and Gallman for any delay or burden this mistake has imposed on the timely prosecution of this case. The next scheduled Status Conference is for Monday, March 2 at 10:00 am wherein Defendants

will bring an updated Proposed Order to Produce and be prepared to set a date certain for the timely completion of Plaintiff Rutherford's deposition. After the completion of his deposition we anticipate that fact discovery will be complete.

I thank the Court for its time and attention to this matter and should the Court have any questions or concerns then please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'SJB', with a long, sweeping horizontal line extending to the right.

Steven J. Bushnell, Esq.

SJB:jg

cc: Rayvon Rutherford, *via Certified Mail*
Reginald Gallman, *via Certified Mail*